

P L A N N I N G C O M M I S S I O N

ACTION MINUTES

TUESDAY, JUNE 7, 2005

Chair Parsons called the meeting to order at 7:02 p.m. at the Twin Pines Senior and Community Center.

1. ROLL CALL:

Present, Commissioners: Parsons, Dickenson, Horton, Frautschi,
Wozniak, Gibson, Long

Absent, Commissioners: None

Present, Staff: Community Development Director Ewing
(CDD), Principal Planner de Melo (PP), City Attorney Zafferano (CA),
Recording Secretary Flores (RS)

2. AGENDA AMENDMENTS: None

3. COMMUNITY FORUM (Public Comments): None

4. CONSENT CALENDAR:

4A. Minutes of May 3, 2005 Planning Commission Meeting

MOTION: By C Frautschi, seconded by VC Dickenson, to accept the Minutes of Tuesday, May 3, 2005 as presented.

Ayes: Frautschi, Dickenson, Gibson, Long, Horton, Wozniak, Parsons

Noes: None

Motion passed 7/0

5. PUBLIC HEARINGS:

5A. PUBLIC HEARING – 419 Yorkshire Way

To consider a Single Family Design Review to construct a 530 square foot addition to the existing 1,390 square foot single-family residence for a total of 1,920 square feet that is below the zoning district permitted 2,782 square feet for the site.

Appl. No. 2005-0008; APN: 040-263-100; Zoned: R-1C (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15301

Applicant/Owners: John and Julie Hughes

PP de Melo summarized the staff report, recommending project approval subject to the Conditions of Approval as attached.

C Frautschi asked how many trees are being added to the landscape. John Hughes, owner/applicant, confirmed that they will be adding two trees in front of the house and that they are not removing any trees.

Chair Parsons opened the Public Hearing. No one came forward to speak

MOTION: By C Gibson, seconded by VC Dickenson, to close the public hearing. Motion passed.

C Frautschi commented that this was a modest request, well below the FAR, pleasant design, and he liked the color palette. He questioned if the patio cover is going to be removed, and if so should it be included in Exhibit A. CDD Ewing remarked that its removal shows on the site plan and therefore does not need to be conditioned.

Commissioners Horton, Wozniak, Long and Chair Parsons concurred that it is a good project. C Long suggested that it could have been improved if it had a more variegated roof line and Chair Parsons would like to have seen a couple of larger trees in front.

MOTION: By C Frautschi, seconded by VC Dickenson, to adopt the Resolution approving a Single Family Design Review at 419 Yorkshire Way, with Exhibit A attached.

(Appl. 2005-0008)

Ayes: Frautschi, Dickenson, Gibson, Long, Horton, Wozniak, Parsons

Noes: None

Motion Passed 7/0

Chair Parsons noted that the item may be appealed to the City Council within ten days.

PP de Melo confirmed that the Landscape Plan indicates the addition of two 15-gallon trees in the front yard – a Japanese Maple and a New Zealand Tea Tree.

5B. PUBLIC HEARING - 1810 Mezes Avenue

To consider Variances, and a Single Family Design Review to remove and replace a detached garage at the front corner of the property and to construct first and second floor additions to the existing single-family residence. Total proposed floor area for the residence is 2,227 square feet that is below the zoning district permitted 2,232 square feet for the site. (Continued from 4/19/05 Planning Commission Meeting)

Appl. No. 2004-0050; APN: 044-102-290; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15301

Applicant/Owners: Artin Hamamciyan

CDD Ewing summarized the staff report, noting that the changes recommended by the Commission at the hearing of 4/19/05 are listed with a summary of responses to the 12 items. A final resolution of approval would be prepared based on the Commission's direction at this meeting.

There were no questions for staff from the Commission.

Artin Hamamciyan, owner/applicant, stated that he had no problem with moving the elevator tower to the left as had been suggested, changing the

color is not a problem, and that the suggestion on the stairs made quite a bit of sense.

Chair Parsons opened the Public Hearing. No one came forward to speak.

MOTION: By VC Dickenson, seconded by C Frautschi, to close the public hearing. Motion passed.

C Gibson liked the reduced size of the garage and other adjustments that had been made. He was hard pressed to see how the tree is going to survive with the excavation being well within the drip line but had to assume that the arborist is ok with that. He did not think the elevator placement made a lot of difference in the look but felt that if it were at the corner there would be more damage to the tree than in the middle. He thought the shed should be removed.

C Frautschi had a problem with the 8' tall garage, and thought that when they are finished it would be 15' from the street. He felt that if he supported the project he would be granting a special privilege for the property. He would much prefer to see a horizontal elevator that ran up the center of the property and under the house since the vertical elevator would bring the noise right up to the level of the house next door. He could not support another Variance on that side of the property and still could not find for Variances C, D or E.

C Horton felt that the majority of the Variances are an existing condition but she could not support a Variance for a shed in the back yard – it either needs to be removed entirely or moved within the setback and lowered so that it does not increase the FAR. She would prefer to see it removed as they are adding enough square footage as it is. She could not support a Variance for the stairs within the setback.

C Wozniak and C Long agreed that the shed needs to be moved or removed.

VC Dickenson agreed with staff's recommendations to remove the shed, minimize the number of Variances, and repositioning the elevator, but was concerned with repositioning the elevator without actually seeing an elevation.

Chair Parsons agreed that they need to see an elevation of the elevator and felt that the further they could get it away from property line the better it would be. He stated that he did not like the design in that there are still a lot of stairs, even with the elevator, and could not support granting a Variance for allowing a shed within the setback. He felt it made more sense to move the elevator toward the center of the property to eliminate the Variance and would like to see more landscaping to screen the bottom of the house from the street. He wanted to see a landscape plan if the project is approved.

MOTION: By C Long, seconded by C Frautschi, to continue the Single Family Design review and Variances for 1810 Mazes Avenue to date uncertain with the heretofore agreed to by the applicant changes to move the tower, change the color to a darker color, change the stairs to work around the elevator, provide an elevator elevation, completely remove the shed from the setback, and provide a Landscape Plan. (Appl. 04-0050)

Ayes: Long, Gibson, Wozniak,

Noes: Frautschi, Horton, Dickenson, Parsons

Motion failed 3/4

MOTION: By C Gibson, seconded by VC Dickenson, to approve the Single Family Design and Review Variances with the added conditions to 1) relocate the elevator tower and modify the stairway, 2) eliminate the setback encroachment of the detached shed, 3) improve the screening of structures through landscape revisions, 4)

use darker colors, and 5) return with a front and side elevation of the elevator and a revised walkway plan. (Appl. 04-0050)

Ayes: Gibson, VC Dickenson, Frautschi, Long, Horton, Wozniak, Parsons

Noes: None

Motion Passed 7/0

5C. PUBLIC HEARING – 2702 Newlands Avenue

To consider a Single Family Design Review to remodel and expand the existing 1,534 square foot single family residence to the zoning district permitted maximum of 3,345 square feet for this site. (Continued from 2/15/05 Planning Commission Meeting)

Appl. No. 2004-0047; APN: 043-263-210; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15301

Applicant: Chris Kummerer

Owners: Leo and Tanya Mitnik

PP de Melo summarized the staff report, recommending project approval subject to the Conditions of Approval attached, noting that staff believed the applicant had done a good job of addressing the Commission's concerns expressed at their public hearing of February 15, 2005.

Responding to C Gibson's question, PP de Melo stated that the patio does not count in the floor area because it will be open on two sides.

Chris Kummerer, architect/applicant, presented a view of the house that served to compare the new design to the old design, showing the changes that were made and noting that they went through the minutes point by point and tried to address the Commission's concerns. He felt that lowering the building, adding a two-car garage, taking some square footage away, and getting rid of the big windows really helped, in addition to having only one entrance to the property. He added that by lowering the building addition two feet, the upstairs bedroom #1 is on the same level as the addition's top level, thereby alleviating the concern that they were two different buildings. They also made a number of changes on the back by putting balconies and bay windows and some smaller residential-scale windows to make it look like it fits better in the neighborhood. Regarding the proposed hammerhead, they believe that because Cipriani has a good deal of traffic and bends behind the property, the hammerhead would provide for safe exiting so that they would not have to back out onto Cipriani. He added that to mitigate the hardscape concerns, it is not concrete but bark.

Leonard Mitnik, owner, commented that they worked very closely with the Planning Department and tried their best to implement all recommendations of the Commission and Planning Department, adding that they will try to do the same when working with the Building Department.

Responding to C Gibson's question about the patio, Mr. Kummerer stated that they felt it was a good compromise, noting that if they totally deleted that portion of the building it would delete the upstairs as well.

C Long asked Mr. Mitnik how he likes the new design vs. the old design from the standpoint of a homeowner investing in this property and if both plans were approved, which one would they choose to build. Mr. Mitnik replied that they tried as much as possible to keep the floor plan, which they liked very much, they wanted to make something unusual with the windows but maybe this is even better, and they really like the two-car garage. Tanya Mitnik stated that she liked the new plan better.

Chair Parsons opened the Public Hearing. No one came forward to speak.

MOTION: By C Frautschi, seconded by C Gibson, to close the public hearing. Motion passed.

C Wozniak thought the new plans represented a big improvement and appreciated that the applicants took all of the Commission's comments seriously.

C Long explained that he asked his earlier questions because to him it is part of a learning process and indicates to him that the process works. He felt it was a good example of how the process works, where not only does the Commission feel the City is better served by having a project that fits better within the character of the neighborhood and meets some of their goals and objectives, but also that the applicant is well served by coming in with a better plan. He felt it is a great plan and a great project.

VC Dickenson: Agreed with fellow Commissioners.

C Horton agreed that it is a much better design and fits in the neighborhood. She brought up the matter of possibly needing to change their address, and CDD Ewing stated that they will have that dialogue with the applicant. She felt that the 2-car garage and space for parking in front is perfect had no issue with the hammerhead.

C Frautschi felt that this project is a good example of staff's work and the architect and the applicant in balancing, and where they dug a little bit more and got a better project. He felt it is a lovely prairie-style home that fits into the neighborhood and that the house has better flow. He did not feel that the Landscape Plan was particularly imaginative and cautioned that the Japanese privets proposed to be put very close to the house can get to be 20' tall and could cause a problem in the future. On page 2 of the Resolution, third paragraph, he would like to see the word "all" inserted where it says "The applicant proposes to remove old and unsightly sheds...." On the same

page under C, he thought the hammerhead was a good idea but does not like to add paving to a yard and would like to somehow insert the words "a permanent unpaved area" into this document so that at sometime in the future if someone decides they want to pave that area they won't be allowed to do that. He was delighted with the project and thanked the owners and architect for the project.

C Gibson took exception to the patio – he felt it is a strange patio with two walls, and to get there you have to walk through the guest room and the living room into the kitchen. He was afraid that either with this owner or with the next owner it will become a place to put the trash can, the rusty bicycle and the old lawnmower and since it fronts on Newlands it will look terrible. He liked the rest of the design and approve of the hammerhead, but would like the patio eliminated, suggesting that they find the approximately 150 sq.ft. somewhere else.

Chair Parsons agreed that it is a much better but confusing design. His concern with the patio would be that it might end up getting enclosed some day, which would require a Variance. He supported the two changes suggested by C Frautschi.

MOTION: By C Long, seconded by C Frautschi, to adopt the Resolution approving the Single-Family Design Review at 2702 Newlands Avenue, subject to the attached conditions in Exhibit A an adding the condition that the unpaved area of the hammerhead remain unpaved and the insertion of the word "all" in the first sentence of the third paragraph of the Resolution. (Appl. 04-0047)

Ayes: Long, Frautschi, Horton, Wozniak, Dickenson, Parsons

Noes: Gibson

Motion Passed 6/1

Chair Parsons noted that the item may be appealed to the City Council within ten days.

5D. PUBLIC HEARING – 2100 Ralston Avenue

To consider a Conditional Use Permit to place removable produce/flower carts, and seasonal displays in front of the existing Safeway grocery store. The proposal includes no increase in building floor area and no additional parking.

Appl. No. 03-0122; APN: 044-281-240; Zoned: C-1 (Neighborhood Commercial)

CEQA Status: Categorical Exemption per Section 15301

Applicant: Edward J. Gee & Associates

Owners: Safeway Stores, Inc.

PP de Melo summarized the staff report, recommending project approval subject to the Conditions of Approval attached.

C Wozniak asked for clarification of the site footcandle analysis. PP de Melo deferred the question for the applicant. She further asked what specifications were given for the approved seasonal displays in cardboard containers at the El Camino Safeway. PP de Melo responded that the conditions that the Commission scrutinized and approved for the El Camino store were imported for this project.

Chair Parsons asked if the new lighting is already installed. PP de Melo responded that the lighting is in – an electrical permit was approved in November 2003, it was constructed in January 2004, all 6 poles were replaced and the lighting fixtures were also changed. There have been concerns about what happened relative to the site lighting for the project so

they provided a summary of the actions taken for those electrical permits as well as the site lighting exhibit on the spill diagram was included as part of the project attachments. It is not proposed as part of this project.

VC Dickenson stated that what PP de Melo just said contradicts CDD Ewing's email to a resident adjacent to the property stating that the project description is replacing parking lot lighting and is for the fixtures only—not for replacement of the poles. PP de Melo explained that they replaced all 6 poles. The site lighting issue is one that they were grappling with back in January of 2004 in terms of what were the actual actions that took place for the lighting for that store. When the fixtures were replaced, the poles were also replaced because one of them blew over. The applicant had concerns about safety, augmented the permit, and had those 6 poles replaced as part of that project. He explained that the original permit was just to replace the fixtures but the applicant, in the course of construction, also replaced the poles because they were not performing well – one of them blew over - and they decided to replace all 6 poles. He confirmed that the height of the poles did not change – they stayed at 30', which was the original height of the poles when the store was first constructed.

Responding to C Frautschi, to clarify the issue of the cardboard boxes, PP de Melo stated that the project description includes what the applicant wanted to do, and the Conditions of Approval include a condition that they are not allowed to do that.

Regarding the Landscape Plan, PP de Melo stated that he went through every file trying to determine if there was a Landscape Plan for the original project but there was none. The applicant is amenable to changes for the landscaping that is not doing well, but there is not a Landscape Plan where we could say that they have to replace this or that. The intent is to use the existing-conditions exhibit provided for this project as a baseline, perform an inspection, see what needs to be replaced and then require a future Landscape Plan if the Commission deems it appropriate for this project. They are going over concept plans for new landscaping but it has not yet been finalized. If landscaping is a concern of the Commission they can make it a condition of approval that they come back with a final Landscape Plan subject to the Commission's review and approval. C Long asked if the applicant has been asked if they have a copy of the original Landscape Plan in their records. PP

de Melo responded that they had not been asked, but that if they could provide one, it would be more than welcome.

C Long stated that he was confused as to why the lighting is a part of this discussion. PP de Melo responded that they were trying to provide background; that there were concerns raised by adjacent property owners, Commissioners, and Council members in November '03 through February of '04 so they thought it appropriate to include a discussion as to what took place, what happened, what is vested, what's in place, and also provide the exhibit regarding the existing 6 lights. Discussion ensued regarding the replacement of the light poles, with C Long stating that it would have been interesting to see what site footcandle analysis the previous lights emitted vs. the current lights in order to judge whether there has been an impact to the neighborhood. He asked why the replacement of the poles and the increase from two heads to four on each pole did not trigger a Design Review. Staff responded that Zoning Code Section 13.5 which describes that any changes to a building not adding floor area, minor modifications, require Administrative Design Review and that was not part of the approvals for this project, and that Design Review is only subject to a building permit. Changing the heads of a light fixture only requires an electrical permit and therefore does not trigger design review. CDD Ewing added that that was the genesis of the email that VC Dickenson referred to, but when a pole blew over and concern was that the other poles are of the same vintage it became a safety issue that needed to be addressed. Replacing the poles required issuing a building permit that did not get Design Review because it needed to be done on an urgency basis and, given that the poles are the same size, the number of heads was not subject to the building permit, it was subject to the electrical permit and that increasing the lighting was not subject to a building permit. The Zoning Code sees permits for support systems like electrical, plumbing and mechanical as less than a building permit for triggering various things like Design Review. Responding to C Long's comment that the code as far as lighting by commercial buildings is that it requires that it be down-facing, CDD Ewing stated that there are no specific candle lighting standards – only a general provision that lighting be down-directed and not create off-site glare, and that staff has determined that these requirements are met by the changed lighting at Safeway that was done some 18 months ago. C Long asked for clarification of the email of 2/5/04 which stated that staff believed that the existing poles have been repainted but not replaced. CDD Ewing responded that their initial report was that they had been repainted and that they subsequently learned that they have been replaced.

C Wozniak commented that some time ago she found in the Code where it said that lighting in parking lots should not interfere with the surrounding neighborhood and it should not glare out and should be screened. She felt that if, after the lights were put in they were found to cause an annoyance, it is within someone's purview to complain about them and get it fixed; there is an ordinance and people are protected by that ordinance. She asked if it was within the Commission's power at the public hearing to do something about this if they deem that there is a problem—could they hold back the rest of the permit because of that? CDD Ewing replied that since the lighting is permitted and signed off, it would be a matter of a complaint about the lighting. He was not sure that they have a connection to this use permit to hold one up for the other.

CA Zafferano interjected that just because a complaint has been made about some particular aspect of the does not mean that the complaint is valid, and without any evidence he thought it would be difficult for the Commission, on the record that existed in front of them, to make such a finding. Perhaps, given other circumstances, the Commission could make such a finding.

VC Dickenson asked if remembering the way the lighting was and having seen the upgrade in lighting in person makes it valid. CDD Ewing replied that the increase in lighting per se is not a problem; it's the off-site spillage. If the down-directed lighting is brighter but is still down-directed and does not create off-site glare, it would not necessarily violate the zoning provision. VC Dickenson stated that in his personal opinion it does spill over into the neighborhood. CDD Ewing replied that the ordinance says "Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance." He felt that is a pretty tough standard to follow – it's not even a standard as much as it is a judgment as to what is a nuisance, and the courts rule on what a nuisance is. The City asserts that there is a nuisance and tries to work with the applicant cooperatively if we want to follow that direction, but ultimately the courts decide whether or not we have created a nuisance. That is all they have to work with at this point. He added that, for example, the Greek Orthodox Church has no basis to make a complaint on this standard because it is for residential properties.

Edward Gee, Safeway's architect for this project, stated that the application is for identical outdoor display carts and seasonal displays that were approved for the El Camino store. They are proposing the addition of a CMU screening wall to store the shopping carts that will match and blend into the elevation of the store front. Safeway went through their files and could not find a landscape plan, so they commissioned a landscape architect to develop an as-built landscape plan, and they are proposing to make the landscape improvements on their own.

C Wozniak asked Mr. Gee if he would be willing to make changes to the lighting. Mr. Gee replied that that would be difficult as the lighting has been installed, reminding the Commission that the poles were replaced as a safety issue because one fell down. Regarding the intensity of the lighting, he reminded the Commission that the parking lot of the store was very dark and was a security and safety issue where there were muggings at the store and there were complaints by customers because the area was dark. They hired an engineer to do a footcandle survey on the new light fixtures study, noting that the direction of the heads are directly down and that as the lighting spreads out it dims so that along the edge of the parking lot the footcandle is generally 1-footcandle or below. The lighting study demonstrates that there is no spillage outside of the parking area.

CDD Ewing cautioned the Commission that staff was having difficulty finding a nexus between the CUP request for the outdoor displays and the parking lot lighting, and that it would be up to the Commission to do so.

C Long asked Mr. Gee if Safeway was willing to conduct a site footcandle analysis comparison between the existing lighting and the previous lighting. Mr. Gee responded that he was not sure how they would do that; the measurements they have were taken of the new lighting. He added that he would prefer not to address the lighting issue because that is not what they were submitting their use permit for, and that they did not find any objection to the conditional uses that are applied to this permit.

Responding to C Horton's concern about the narrow space in front of the store since the existing sidewalk is only 6'2" wide, Mr. Gee stated that their

proposal includes restriping the handicap parking to provide more direct access to the front doors, and that the 2' strip that is currently filled with rocks will be removed so that the display carts will be up against the window.

Responding to C Frautschi's question, Mr. Gee said that they are not displacing handicapped parking spaces, just the two normal spaces. He acknowledged that the striping is bad and stated that they expect to have the whole parking lot restriped within the next month.

Chair Parsons asked Mr. Gee if they gave any consideration to curbing and paving that area and just eliminating those two parking spaces so that it would be more accessible and clearly defined as to where people are standing as opposed to where vehicles might be moving. Mr. Gee stated that they put it on the left-hand side so that they could provide better protection for pedestrians vs. vehicles. Chair Parsons commented that, since they have excess parking it would seem that that should be a consideration because people are going to trip over the curb backstops, especially if there is produce sitting out there.

Chair Parsons asked when the carts are going to arrive at the Safeway on El Camino. Mr. Gee responded that they should be here soon; he will provide the answer to PP de Melo to pass on.

Judi Allen, Alameda de las Pulgas, across the street from the Safeway, expressed her concerns about the following issues:

- The ugly plastic crates that were used at the Safeway on El Camino Real, that are in violation of the CUP. She was assured by staff that these would not be used at the subject Safeway.
- The lighting situation. She quoted from CDD Ewing's email of 2/5/04 and determined that either the staff report is in error or Mr. Ewing's February email was in error, and felt that there was some kind of after-the-fact correspondence between Safeway and the City to justify what really

happened. She believes the new poles are definitely higher than the previous poles.

- Agreed with C Horton that the area in front is very narrow.
- She stated that Safeway has a history of being insensitive to noise issues, which is reflected in complaints. Allowing Safeway to operate outside of the building, particularly the hours 7a.m to 11 pm, will insure increased noise levels and disturbances of the residents' entitlement to peaceful enjoyment of their homes. If approval is given she hopes they will change the hours to from 8 a.m. to 7 p.m. and require Safeway to post notices for all employees to be sensitive about noise when outside. She felt that Findings 1 and 4 must be answered in the negative. Adding to the movement, the setup, the takedown and the operation and commotion of the business outside of the building guarantees that there will be additional noise in the residential community, particularly before 8 a.m. and long into the evening which would adversely affect the residential properties in the vicinity.
- The two parking spaces adjacent to the loading dock would be an invitation for a tragedy if somebody wasn't paying attention to what they were doing.
- Suggested a hedge around the corner on Ralston Avenue would make it look better and be easy to keep up, and would help keep their trash inside their own parking lot.

MOTION: By C Frautschi, seconded by VC Dickenson, to close the public hearing. Motion passed.

C Gibson asked for clarification as to what they are approving. CDD Ewing directed him to the bottom of page 2 of the Resolution, where it says "...the Planning Commission approves the CUP to locate outdoor produce/floral carts and seasonal displays adjacent to the north/south building entrances for the Safeway Grocery Store..." C Gibson stated that he was prepared to approve the application, adding that he was not concerned that people picking out their melons on a busy corner with traffic all over the place would make additional noise.

C Frautschi stated that he had no problem with the seasonal displays but made the following points regarding the landscaping:

- The two Eucalyptus trees listed in the plan presented by Safeway as being at the front of the store have been cut down.
- A carrot-root tree listed as being near the sign has also been removed.
- He would like to see the newspaper stands that are currently in front of the store consolidated into a streamlined newspaper bank similar to the one at the El Camino Safeway.
- The 4 pinus elderica near the loading dock need to be removed. They are a desert pine that have been topped, which might be why they do not look good there. He would hope that the revised landscape would include a re-greening of the area with native trees such as redwood trees. He sees this as an opportunity since both Ralston and Alameda are designated scenic corridors.
- He would like to see some sort of an Oak tree where the Acacia tree is now located.
- He believes the Oleander is not a good low property screen and suggested Escalonia or something similar.
- He sees the back part of the property on Coronet as an opportunity for the applicant to make an effort towards the neighborhood; the area is one of the most under-parked areas in Belmont and the back of the store is not utilized above the loading dock. He believed that the fence that runs along Coronet could be moved over to the ridgeline and a park could be placed there. He added that there is a view from this whole area that looks over the store; if nothing else it would be a place where employees could take their breaks and would be a real benefit to the neighborhood.
- He suggested that the parking that is on Ralston that is closest to Alameda could be shifted north slightly by 2' adding more planting areas near the sign without obstructing the passageway.
- He would like to see the elimination of the driveway that is nearest the corner. He sees it as a problem to Safeway because people coming down Alameda cut through the parking lot instead of waiting for the light.

C Horton restated her concerns about the width of the sidewalk and agreed that the opening and closing hours should be changed due to the noise that will be made by dragging the carts in and out.

C Parsons stated that he would like to see the two non-handicapped parking spaces at the north end of the front of the building treated the same way as at the other end, with a raised curb and paved area so they don't have to worry about a safety issue. He agreed with C Frautschi about the entrance to the street on Alameda and in the landscaping. He confirmed with staff that the zoning directly across the street is residential, and agreed that they should consider making the hours different at this location since there are residences across the street and old people on the other side of Ralston.

C Wozniak questioned why the lighting plan has nothing to do with this permit and the landscape plan does. She supported improvement of the landscaping and I felt that it is ok to talk about the lighting and how it influences the neighborhood.

CDD Ewing explained the distinction between the two in that the applicant had offered to do a landscape plan so that becomes part of the project and could be discussed, but they have not offered to redo the lighting plan.

C Wozniak commented as follows:

- If they did not want to discuss the lighting it should not have been mentioned in the report and added that the building permit details replacement of the parking lot lighting; it does not detail doubling the parking lot lighting. She felt that there is a problem there and if the applicant cares about the neighborhood they'll address the problem.
- She also would like to see the hours reduced and a landscape plan that includes a better screen between Alameda de las Pulgas and the neighbors there – a complete screen that would mitigate the lighting with shrubs and more trees if they decide not to change it.

- She asked staff to clarify the plastic carts that were in use at the El Camino Safeway. PP de Melo explained that they were not permitted and were just a stop gap until the real carts are delivered, and they were removed within a few days after staff talked to the store manager.
- The report talks about neighborhood outreach and says that the applicant reported that “no significant concerns were raised about the project.” She found these kinds of comments not very helpful because it is the applicant saying there are no significant concerns but obviously there were some concerns because they heard from Mrs. Allen, who had talked to the applicant.
- She believes that since this is a scenic corridor bordering on a residential neighborhood, they have to respect the residents and do whatever they can do to make life better for the residents.
- She found it interesting that Safeway is rebuilding their store in Menlo Park, making it a smaller, more friendly, scaled-down store. She would like to see more of that kind of sensitivity to Belmont.
- She did not have an objection to the carts but would like to see the hours reduced to make it more in line with the residential neighborhood.

C Long liked the European-style carts but was skeptical about approving these until he could see the ones ordered for the El Camino Safeway. He mentioned that he had a tough time with the City Attorney’s comment that there is no nexus between the lighting and this project’s approval, believing that if there has been a failure to comply with any condition or conditions imposed in the granting of a CUP then this is deemed null and void. He felt that if the majority of the Commission believes that the lighting is truly a nuisance, the entire project and maybe the operation of the entire store is in peril, and he saw a nexus there.

CA Zafferano replied that what the Planning Director had said was that the Commission would have to find such a nexus, and that he had indicated that he did not think the evidence existed as presented at the meeting to find that nexus. Secondly, the CUP that is requested appears to be for outdoor displays and there are four findings that the Commission needs to make in order to approve, or if they cannot make those findings to disapprove the CUP. He added that the proceeding before them is not a proceeding to

determine whether there is or is not a nuisance. They've had comments by certain members of the Planning Commission and a comment by one member of the public and he was not prepared to tell them whether there is enough evidence that it is or is not a nuisance. He added that if anything, it would be a private nuisance, not a public nuisance, because a public nuisance is defined as something that affects a large number of people generally in the community, so if anything there may or may not be a private nuisance that Safeway is creating as a result of their lights with respect to the one property owner that they heard from. He reiterated that this proceeding is not a nuisance proceeding—it is simply to determine if they should approve the CUP and Finding 4, which is that the proposed use, if it complies with all conditions, will not adversely affect other property owners. The proposed use is the implementation of the outdoor carts—not the installation of lighting. He advised that they be careful if they are going to make a finding that they cannot articulate under Finding 4 and make sure that there is such a nexus if they can find one.

C Long asked if there is a clear nexus between the landscaping because it is part of the application. CA Zafferano replied that there is not a nexus. It's not the issue that there's a nexus; it's the issue that the applicant has proposed to review the landscaping and so that puts it within their purview—it's grounds for discussion. Even beyond grounds for discussion, the applicant having opened up that question and having proposed it as part of the project, the Commission can certainly impose whatever conditions they feel are reasonable on the landscape plan.

C Long liked the idea of park space and the idea of changing the hours, but was still at a stopping point because he was having a hard time understanding how the existing CUP is being upheld, so he did not understand why they would grant additional privileges even if he could make the findings.

VC Dickenson had nothing to add other than the fact that they did have a lengthy discussion on the lighting which was necessary, and the staff report and applicant evidently opened the door for that. He was glad to see that the applicant is going to do a face lift on this location.

Chair Parsons felt that there is a lot of opportunity to mitigate some of the lighting issues that Mrs. Allen has in terms of additional trees along the Alameda and a low hedge along the sidewalk. He felt that there is going to be some education necessary to make it a safer front entrance to the store and thinks it is necessary for a raised curb around the whole front of the store. He recommended that the motion state that if they are going to approve this project they see a landscape plan, reduce the hours, and require that the two parking spaces that are non-handicapped be removed and the cross hatched area beside it be raised and paved similar to the south end.

MOTION: By C Frautschi, seconded by C. Horton, to direct staff to prepare a Resolution for confirmation at the next meeting, approving a Conditional Use Permit to allow the outdoor produce/flower carts and seasonal displays for the Safeway Grocery Store at 1200 Ralston Avenue, subject to the Conditions in Exhibit A, with the addition of a revised Landscape Plan, and conditions that the carts will be in place from 8:00 a.m. to 8:00 p.m. and the two parking spaces that will be used for the seasonal displays will be eliminated and undergo raised paving. (Appl. PA2003-0122)

Ayes: Frautschi, Horton, Gibson, Dickenson, Parson

Noes: Long, Wozniak

Motion passed 5/2

C Long commented that he could not make Findings 2 and 4.

6. REPORTS, STUDIES, UPDATES AND COMMENTS

6A. Code Compliance Update – Safeway – 1100 El Camino Real

PP de Melo reported that the parking lot landscaping has been installed and staff is going to do a site inspection within the next two weeks to confirm that all the plantings approved as part of the parking lot landscaping have been installed. The clock tower was functioning on all four elevations, the gate has been closed, and they have not had any significant issues related to the shopping carts. Once the landscaping has been confirmed to be completely done, PP de Melo would be prepared to stop these reports unless issues crop up, and then they could bring it back.

VC Dickenson asked if the recent coverage of the windows by boxes stacked from floor to ceiling inside the store is in conformance with the Downtown Plan. Staff agreed to check that out.

C Wozniak asked if the Conditions of Approval have been posted. VC Dickenson responded that the store manager had pointed out to him that the Conditions were posted.

C Long stated that it was his understanding that the gate was to be repaired, not just to be closed. CDD Ewing responded that the condition is to keep the gate closed, not how it is closed.

6B. Development Review Project Tracking

PP de Melo distributed copies of the Development Review Project Tracking report, which provides an up-date on the projects that have taken place from a development review project tracking standpoint since January 1 of this year, and explained the format

Other Updates and Comments

CDD Ewing made the following announcements:

- The Permit Efficiency Task Force would meet the following evening and all Commissioners were invited to attend.
- The next City Council meeting will be the inaugural meeting in the new Council Chambers in City Hall and Commissioners were invited to attend both for the ceremony of holding the meeting there but also because they will be approving the new budget.
- The next Planning Commission meeting will also be held in the new Council Chambers.
- The Interim City Manager, Jack Crist, apologized for not attending the Commission meeting but looks forward to attending either the next one or the one thereafter.
- They are in the process of reviewing 29 applications for the position of Associate Planner.

C Wozniak asked if the "Indulge Buffet" sign and another sign between El Camino and 5th Avenue were permitted and/or on City property. CDD Ewing responded that staff will follow up.

C Horton reported that she and C Wozniak had attended the Planning Commission training in Mt. View, and that the most interesting session was on "The How to Keep Yourself Out of Jail."

CDD Ewing reported that the next California Planning Association conference is at the Awhanee Hotel in Yosemite and the League of California Cities meets in San Francisco in November.

CDD Ewing added that also on the agenda of the next Council meeting is staff's mid-term report about creating an administrative code enforcement process, and they are going to start discussing what it would take to move from enforcing through the courts to enforcing through some kind of a city-run process. The staff report will be available on the City's website.

Responding to C Frautschi's question, CDD Ewing stated that the Atrium project was not appealed.

C Frautschi commented that the batting cage and concrete at Notre Dame High School has been removed and that the gym lights are now turned off at night.

**7. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING
OF TUESDAY,**

JUNE 14, 2005

Liaison: Commissioner Horton

Alternate Liaison: Commissioner Dickenson

8. ADJOURNMENT:

The meeting adjourned at 9:20 p.m. to a regular meeting on June 21, 2005 at 7:00 p.m. at the City Hall Council Chambers.

Craig A. Ewing, AICP

Planning Commission Secretary

Audiotapes of Planning Commission Meetings are available for review

in the Community Development Department

Please call (650) 595-7416 to schedule an appointment.